ORDER

After having received, the order Dt. 22-7-2008 passed by Hon'ble Punjab and Haryana High Court at Chandigarh in CWP no. 10890 of 2008, titled as Alamgir V/s State of Haryana and others in which the petitioner has prayed before the Hon'ble High Court to direct the respondents to allow the petitioner to continue the prayer in the Masjid Kabuli Bagh at Panipat or in the alternative to make adequate arrangement, keeping in view the religious sentiments of the petitioner and other community. The above said CWP was disposed of by Hon'ble Court on 22-7-2008. The relevant para of the order is reproduced as under:-

"After hearing counsel for the petitioner and keeping in view the facts and circumstances of the case ,we disposed of this petition with a direction to the authorities to look into the representation Annexure– P 3 made by the petitioner in accordance

Sd/-
Satish Kumar Mittal
judge
Sd/-Augustine George Masih
Judge

The copy of order dt.22-7-2008 passed by Hon'ble Punjab and Haryana High Court at Chandigarh was received in office of undersigned on 29.8.2008, the undersigned directed Sub Divisional Officer (Civil) Panipat vide letter no. 1292/LFA dt. 17-9-2008 to submit his detailed report, after hearing both the parties regarding Annexure P-3 of above said writ petition. In pursuance thereof, the Sub Divisional Officer (Civil) Panipat vide memo no.1410/ST Dt. 16-9-2009 submitted

his report after hearing the parties, the Sub Divisional Officer (Civil) Panipat also conducted spot inspection.

The Sub Divisional Officer (Civil) Panipat, after going through the letter no. 12/ST-83 pura/316 Dt. 27-1-2009 of Director Archaeology and Museum Deptt. Haryana S.C.O. No. 9, Sector-5, Panchkula alongwith memo No. 18-82/CC/2008/Chd. 217, issued by Superintendenting Archaeologist, Archaeological Survey of India, Chandigarh Circle, Bay No. 5!-52, Sector 31-A, Chandigarh has submitted his report that the Masjid Kabuli Bagh has been declared as protected monuments vide Punjab Gazette Notification General 10-8-1918 and since then the above Mosque/ Masjid is governed and managed by Indian Archaeological Survey of India, Chandigarh circle, Chandigarh. As per Section 7 and 8. of the Ancient Monuments and Archaeological sites and Remains Act 1958 and Rules 1959 no act in violation of provisions of the said Act can be permitted in the centrally protected monuments and opening of centrally protected monuments, which is not in religious use for offering prayer is prohibited and same is cognizable offence under Section 30 (1) (1) of the said Act. The Sub Divisional Officer (C) Panipat also submitted in his report that after the management of the said Masjid handed over to Indian Archaeological Survey of India, no Namaj/prayer was ever offered in said Masjid. The petitioner/ applicant namely Alamgir has not placed any satisfactory proof which made it clear that any prayer was ever offered in this Masjid. In these circumstances no permission to offer prayer can be given to the petitioner/ applicant.

As per the report of Superintending Archaeologist, Archaeological Survey of India, Chandigarh circle,Chandigarh dt. 1-12-2008 which contains the legal opinion of central Govt standing council,

Chandigarh which states ' All sorts of false averments have been made in this representation by concealing material facts by an individual, who is well aware about the fact that no namaj was performed in the Kabuli bagh masjid, Panipat for the last about 100 years. It was declared as a protected monument under the Ancient Monuments Preservation Act 1904 vide notification Dt 10-8-1918, which was subsequently confirmed vide notification Dt 27-3-1919 and the same was published in the Punjab Gazette dated April 4, 1919. The area of this monuments falls in khasra no. 9 and total area is 16 bighe and 1 biswa and the same belongs to central Govt. which is fenced with wire barbed. It is not under the religious use prior to protection i.e. 1919. Even no religious activity afterword was performed in that Mosque. It is crystal clear that Masjid, Kabuli Bagh, Panipat is ancient monuments and is governed by the Archaeological sites and Remain Acts 1958.

Further, in the same lettar the Archaeological Survey of India, Chandigarh circle Chandigarh vide memo no. 18-82 /cc/ 2008. Chandigarh 217 Dt. 1-12-2008 issued to Director Archaeology and Museum deptt. Govt. of Haryana denied to give permission to perform the religious activities including offering prayer / namaj in the nationally protected monument namely Kabuli Bagh Panipat.

Keeping, in view, report of the Competent Authority to manage the protected monument i.e. Archaeological Survey of India, Chandigarh circle, Chandigarh issued to Director Archaeology and Museum deptt.Govt. of Haryana, Panchkula and the report of Sub Divisional Officer (C) Panipat Dt. 16-9-2009, the permission to perform the religious activities including offering prayer cannot be given in the nationally protected monument namely masjid Kabuli Bagh, Panipat.

Hence, the representation Dt. 15-4-2008 i.e. Annexure p-3 is hereby dismissed and filed.

Dated: 2 -10-2009
Place: Panipat

Vijay Sahyi
Deputy Commissioner,
Panipat

Endst. No. 1587-90 /LFA Dt: 2-10-09

A copy is forwarded to the following for information and necessary action please.

1- Asstt. Registrar Punjab and Haryana High Court , Chandigarh. in CWP no. 10890 of 2008 . Alamgir V/s State of Haryana and others.
2- Chief Secretary to Govt. Haryana Chandigarh.
3- Suprerintending Archaeologist, Archaeological Survey of India Chandigarh, Circle, Bay no-51-52, Sec-31-A Chd.
4. Alamgir S/o Sh. Ibrahim r/o House no. 481/11, near Vridha Ashram, Rajiv colony Panipat.

Vijay Sahyi
Deputy Commissioner,
Panipat

CWP 10890/2008

Annexure P-3

To

The District Administration, through
Deputy Commissioner,
Panipat.

Sub: For carrying out the Worship/Namaz ceremony in old Masjid i.e. Masjid Kabal Bagh at Panipat.

Respected Sir,

That the applicant is Muslim by sect and profess and have faith in the Muslim religion. As per Constitution of India, the applicant alongwith other Muslims have a right to worship and to profess religion of their choice keeping in view the fact that our State is a secular State. It is significant to mention here that right from the establishment of Muslim families and from the era of the forefathers of the applicant, there is a Masjid i.e. Masjid Kabal Bagh which is also called as Jama Masjid and the worship/Namaj ceremony etc. are being performed by the Muslim communities from the very beginning. The applicant is also performing the Namaj etc. right from the very

beginning and the fact that the Muslim existence is also recorded even in revenue record as existed for revenue record prior to the consolidation in the country.

2. That now for about six months, District Administration is adamant and is not allowing the applicant to carry out the usual activities of professing Namaj etc. and thereby hearting the sentiments and in that respect, community at large asserted that the action is beyond the reach of District Administration because the Archaeological Survey of India has advised to keep this Masjid as preserve Monument and as such the entry has been banned which is totally contrary to the basic mandate of law.

3. That there is clear breach and violation of fundament right as well as even sentiment of minority community have also not been taken into consideration. There is apparently, misuse of directive principles of State policy. If there is any restriction, in that yardsticks the restriction can very well be placed but the right can not be taken away in any manner.

You are, therefore, humbly requested to allow the applicant alongwith other members of minority community to carrying out the Worship/Namaz ceremony in old Masjid i.e. Masjid Kabal Bagh at Panipat, so that sentiments of the applicant alongwith other members of the minority community may not heart and the applicant alognwith others can profess/ carry out the Namaj ceremony regularly.

Thanking you,

Dated: 15-4-2008 Sd/-Applicant.

Alamgir son of Ibrahim,
R/o H.No. 481/11,
near Vridh Ashram,
Rajiv Colony,
Panipat.

True copy.

Advocate.

सेवा में,

महामहीम डाक्टर ए० आर० किदवई साहब
राज्यपाल हरियाणा सरकार चण्डीगढ़।

महामहीम जी,

सविनय निवेदन यह है कि पानीपत शहर में मुसलमानों की बढ़ती हुई आबादी के पेशेनजर मुसलमानों को खुदा की इबादत नमाज पढ़ने के लिए बड़ी दिक्कत पेश आ रही है। पुराने नाला पार अशोक विहार कालोनी में एक बहुत पुरानी और बड़ी मस्जिद (कबूल बाग के नाम से खाली पडी हुई है। जिसके आसपास सकडों मुसलमान आबाद है। ये मस्जिद सरकार के कन्ट्रोल में है।

इसलिए आपसे पुरखलुस गुजारिश है कि मस्जिद कबूल बाग को मुसलमानों की इबादत के लिए खुलवाकर सुरक्षित मौका इनायत फरमाए। मुसलमान पानीपत शहर बहुत शुक्रगुजार होंगे और आपको बड़ी मेहरबानी होगी।

14-3-2006

पेशकर्ता
डा० रिजालुद्दीन कस्साब
मौ० इमामबख्श
हाजी रशीद अहमद
इनायतुल्लाह
अलाउद्दीन
मेहताब

सेवा में,

महामहीम डाक्टर ए० आर० किदवई साहब,
राज्यपाल हरियाणा सरकार चण्डीगढ़।

महामहीम जी,

सविनय निवेदन यह है कि पानीपत शहर में मुस्लमानों की बड़ी [illegible]
आबादी के पेशेनजर मुस्लमानों को खुदा- की- इबादत नमाज पढ़ने के लिए बड़ी
खासतौर से जुम्मे की नमाज के लि[illegible] बड़ी दिक्कत पेश आ रही है। पुराने शहर में
नाला पार अशोक विहार कालोनी में एक बहुत पुरानी और बड़ी मस्जिद (कम्पनी
बाग के नाम से खाली पडी हुई है। जिसके आसपास सकड़ो मुस्लमान आबाद है।
ये मस्जिद सरकार के कन्ट्रोल में [illegible]

इसलिए आपसे पुरखलुस गु[illegible] कि मस्जिद कम्पनी बाग में मुस्लमानों को
नमाज के लिए खुलवाकर सुपुर्द [illegible] मौका इनायत फरमाए। मुसलमान पानीपत सदैव
आपका शुक्रगुजार रहेंगे और आपको बड़ी मेहरबानी होगी।

19-3-2008

मोहम्मद अख्तर

19-3-2008

Kamal

मो० इरफान

मो० इरफान

डा० रिजालुद्दीन कस्साब पेशकर्ता

मौ इरफान

Dr. Jalaluddin

हाजी रशीद अहमद

इकराजुद्दीन

महताब अहमद

अफसरन

मो० शकील

अलाउद्दीन

मेम्बरान

Examined
Hon'ble Court of Punjab & Haryana
CHANDIGARH

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

C.W.P. No. 10890 of 2008

DATE OF DECISION : 22.07.2008

Alamgir

.... PETITIONER

Versus

State of Haryana and another

..... RESPONDENTS

CORAM :- HON'BLE MR. JUSTICE SATISH KUMAR MITTAL
HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Gaurav Singla, Advocate,
for the petitioner.

* * *

SATISH KUMAR MITTAL , J. (Oral)

The petitioner, before approaching this Court for the relief claimed in this petition, had submitted a representation dated 15.4.2008 (Annexure P-3) to the authorities.

After hearing counsel for the petitioner and keeping in view the facts and circumstances of the case, we dispose of this petition with a direction to the authorities to look into the representation (Annexure P-3) made by the petitioner, in accordance with law.

Sd/- (SATISH KUMAR MITTAL)
Judge

July 22, 2008
ndj

Sd/- Augustine George Masih
Judge

PUNJAB & HARYANA HIGH COURT

Certified to be true Copy

Examiner Judicial Department
High Court of Punjab & Haryana
Chandigarh

13-8-08.

True Copy

Dasti
W/.

Dogra Adv 24/06/

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

(1) State of Haryana through the Chief Secretary to Government of Haryana Civil Secretariat, Chandigarh.

(2) Deputy Commissioner, Jhajjar through Deputy Commissioner, Jhajjar.

CWP PETITION NO 16895 OF 2006

Mangi

PETITIONER

VERSUS

State of Haryana

RESPONDENT

In continuation of this Courts Order, dated _____ I am directed to forward herewith a copy of order dt. 22/7/06 passed by the Hon'ble High Court in the above noted Civil Writ Petition, for immediate strict compliance, along with copy of Annexure _____ / order passed in CWP No. ____ of _____.

Under the Seal of this Court this 26th Day of July 2006

REGISTRAR (APPELLATE SIDE) PUNJAB AND HARYANA HIGH COURT, CHANDIGARH

SUPERINTENDENT (WRIT)

26/7

For Private Use
Examiner Judicial Department
High Court of Punjab & Haryana
Authorised under Section 76

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT CHANDIGARH.

******

C.W.P.NO. 10890 of 2008.

Alamgir son of Ibrahim, resident of House No. 481/11, near Vridh Ashram, Rajiv Colony, Panipat.

--- Petitioner

Versus

1. State of Haryana through the Chief Secretary to Government of Haryana, Haryana Civil Secretariat, Chandigarh.
2. District Administration through Deputy Commissioner, Panipat.

--- Respondents

Civil Writ Petition under Articles 226/227 of the Constitution of India for the issuance of a writ especially in the nature of Mandamus thereby giving directions to the respondents to allow the petitioner to continue the prayer in in the Masjid -Kabal

ADHAWA
p Vendor
iyana High Court,
Pli
al Stamp Paper
Is not available

ATTESTED

Bagh at Panipat or in the alternative to make adequate arrangement keeping in view the religious sentiments of thepetitioner and other community or issue anyother writ, order or direction which this Hon'ble Court may deem fit and proper in the peculiar facts and circumstances. Of the case.

*****

Respectfully Showeth:-

[1] That the petitioner is Muslim by Sect and is permanently settled in District Panipat in State of Haryana and being the citizen of India, the petitioner is competent to invoke *extra ordinary writ jurisdiction* of this Hon'ble Court under Article 226/227 of the Constitution of India.

[2] That the grievance of the petitioner is that Majid came into being at Kabal Bagh Panipat about 200 years and the same is reflected in the Jamabandi, copy of which is appended as **Annexure P-1**. The Masjid is an old